



House Bill No. 5025

Public Act No. 08-122

AN ACT AMENDING AN ACT CONCERNING CHILD PRODUCT SAFETY.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 21a-337 of the general statutes, as amended by section 2 of public act 08-106, is repealed and the following is substituted in lieu thereof (*Effective October 1, 2008*):

(a) The following acts and the causing thereof are prohibited: (1) The introduction or delivery for introduction into commerce of any misbranded hazardous substance or banned hazardous substance; (2) the manufacturing, distributing, selling at wholesale or retail, contracting to sell or resell, lease, sublet or otherwise place in the stream of commerce: (A) Any children's product that has been designated a banned hazardous substance under this chapter or the Federal Hazardous Substances Act; (B) any children's product, except for an article described in 21 USC 321 (g), as amended from time to time; that is the subject of voluntary or mandatory corrective action taken under the direction of or in cooperation with an agency of the federal government but the defect in such children's product has not been so corrected; or (C) any children's product that is not otherwise in conformity with applicable consumer safety product standards under this chapter, or any similar rule under another chapter of the general

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statutes or any federal laws or regulations; (3) the alteration, mutilation, destruction, obliteration or removal of the whole or any part of the label of, or the doing of any other act with respect to, a hazardous substance if such act is done while the substance is in commerce, or while the substance is held for sale, whether or not the first sale, after shipment in commerce, and results in the hazardous substance being a misbranded hazardous substance or a banned hazardous substance; (4) the receipt in commerce of any misbranded hazardous substance or banned hazardous substance and the delivery or proffered delivery thereof for pay or otherwise; (5) the giving of a guarantee or undertaking referred to in subdivision (2) of subsection (b) of section 21a-338 which guarantee or undertaking is false, except by a person who relied upon a guarantee or undertaking to the same effect signed by, and containing the name and address of, the person residing in the United States from whom he received in good faith the hazardous substance; (6) the failure to permit entry or inspection as authorized by subsection (a) of section 21a-343 or to permit access to and copying of any record as authorized by section 21a-344; (7) the introduction or delivery for introduction into commerce, or the receipt in commerce and subsequent delivery or proffered delivery for pay or otherwise, of a hazardous substance in a reused food, drug or cosmetic container or in a container which, though not a reused container, is identifiable as a food, drug or cosmetic container by its labeling or by other identification. The reuse of a food, drug or cosmetic container as a container for a hazardous substance shall be deemed to be an act which results in the hazardous substance being a misbranded hazardous substance. As used in this subdivision, the terms "food", "drug" and "cosmetic" shall have the same meanings as in the Connecticut Food, Drug and Cosmetic Act; (8) the use by any person to his own advantage, or revealing other than to the administrator or officers or employees of the agency, or to the courts when relevant in any judicial proceeding under sections 21a-335 to 21a-346, inclusive, of any information acquired under authority of section 21a-343

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concerning any method of process which as a trade secret is entitled to protection; (9) the introduction or delivery for introduction into commerce of any item containing asbestos which reasonably may be expected to be used in the construction or repair of structures, without clearly indicating by labeling thereon that the item contains asbestos and that asbestos may cause cancer when inhaled, or the introduction or delivery for introduction into commerce of any toy or other article for sale in this state marketed for the use of children under the age of sixteen containing asbestos; (10) the alteration or removal of any item upon which the commissioner or his authorized agent has placed an embargo prior to the time the commissioner, such agent or a court permits the alteration or removal of such item; (11) the introduction or delivery for introduction into commerce, after December 31, 1992, of any toy or other article for sale in this state and marketed for the use of children between the ages of three and seven, or determined to be for the use of children between the ages of three and seven by the federal Consumer Product Safety Commission pursuant to 16 CFR Part 1500 et seq., as published in the Code of Federal Regulations Revised to January 1, 1991, and as from time to time amended, or the Commissioner of Consumer Protection pursuant to sections 21a-335 to 21a-346, inclusive, which would be classified as a banned hazardous substance under 16 CFR Part 1501.4(b)(1) of said code and does not bear a conspicuous warning label that clearly and specifically communicates that the contents include small parts which pose a hazard for children under the age of three, except that any toy or other article that contains, as of December 31, 1992, a safety warning label in substantial compliance with the requirements of this subdivision shall be determined by the commissioner to be in compliance with this subdivision until October 1, 1993. As used in this subdivision, "conspicuous" has the same meaning and characteristics regarding type size as in 16 CFR Part 1500.121(c)(2) of said code; and (12) the introduction or delivery for introduction into commerce, or the distribution or sale, of a drying oil or drying oil product, manufactured

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after December 31, 1994, which does not bear a conspicuous warning label on a side or back panel of such product stating: "DANGER - RAGS, STEEL WOOL OR WASTE SOAKED WITH (INSERT PRODUCT NAME) MAY SPONTANEOUSLY CATCH FIRE IF IMPROPERLY DISCARDED. IMMEDIATELY AFTER USE, PLACE RAGS, STEEL WOOL OR WASTE IN A SEALED WATER-FILLED METAL CONTAINER." As used in this subdivision, "conspicuous" has the same meaning and characteristics regarding type size as in 16 CFR Part 1500.121 (c)(2) of said code.

(b) A children's product shall not be a banned hazardous substance, as defined in subsection (p) of section 21a-335, as amended by [this act] section 1 of public act 08-106, solely on the basis of containing a component that exceeds the standards pursuant to subparagraph (B) of said subsection (p) if such component is not accessible to a child because it is not physically exposed by reason of a covering or casing and if it will not become physically exposed through normal and reasonably foreseeable use and abuse of the product. For purposes of this subsection, paint, coatings or electroplating shall not be considered barriers that would render lead in the substrate inaccessible to a child through normal and reasonably foreseeable use and abuse of the product.

(c) [If] Within available appropriations, if the administrator determines that it is not feasible for certain children's products that are electronic devices, including batteries, to meet the standards pursuant to subparagraph (B) of subsection (p) of section 21a-335, as amended by [this act] section 1 of public act 08-106, by July 1, 2009, the administrator shall adopt regulations, in accordance with chapter 54, to (1) set standards to reduce the exposure of and accessibility to lead in such devices, and (2) establish a schedule by which such electronic devices shall be in full compliance with the standards established in said subparagraph (B). Such devices shall not be considered banned

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hazardous substances pursuant to said subsection (p) if they comply with the provisions of such regulations.

Sec. 2. Subsection (c) of section 21a-336 of the general statutes, as amended by section 3 of public act 08-106, is repealed and the following is substituted in lieu thereof (*Effective October 1, 2008*):

(c) If the administrator finds that the hazard of an article subject to sections 21a-335 to 21a-346, inclusive, is such that labeling adequate to protect the public health and safety cannot be devised, or the article presents an imminent danger to the public health and safety, the administrator may by regulation declare such article to be a banned hazardous substance and require its removal from commerce. The administrator shall compile, within available appropriations, and from time to time amend, a list of toys and other articles which are intended for use by children and which are classified as banned hazardous substances, and shall post such list in a conspicuous place on the department's web site. Such list shall be publicly accessible and searchable.

Sec. 3. Section 4 of public act 08-106 is repealed and the following is substituted in lieu thereof (*Effective October 1, 2008*):

In addition to the list compiled pursuant to section 21a-336 of the general statutes, as amended by [this act] section 3 of public act 08-106, the administrator, in consultation with the Commissioners of Public Health and Environmental Protection, shall compile, within available appropriations, and from time to time amend, a list of other toxic substances [and the recommended maximum amount of such toxic substances] that [may] potentially should not exist in children's products. In addition, the administrator shall compile, within available appropriations, and from time to time amend, a list of safer alternatives to using said toxic substances.

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Sec. 4. Section 5 of public act 08-106 is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) Not later than October 1, 2008, the administrator, as defined in section 21a-335 of the general statutes, as amended by [this act] section 1 of public act 08-106, shall develop, within available appropriations, a certificate of disposition for retailers and wholesalers prohibited from selling or otherwise placing any children's product subject to a recall or voluntary corrective action into the stream of commerce pursuant to section 21a-337 of the general statutes, as amended by [this act] section 2 of public act 08-106. Such certificate of disposition shall (1) require such retailers and wholesalers to specify the make, model, type, quantity and final disposition of such children's products, (2) contain any other information required by the administrator, and (3) require such retailers and wholesalers to sign an affidavit verifying the authenticity of the information provided in the certificate.

(b) Upon notification or receipt of information that a children's product has been recalled, a retailer or wholesaler shall inspect its premises and immediately dispose of all such products in possession of such retailer or wholesaler. Upon notification or receipt of information that a children's product has been subject to voluntary corrective action, a retailer or wholesaler shall inspect its premises and immediately return to the manufacturer or distributor all such products in possession of such retailer or wholesaler. Retailers and wholesalers shall complete the certificate of disposition form developed pursuant to subsection (a) of this section no later than seven calendar days after the date of notification or receipt of information of a recall or voluntary corrective action. Signed and dated certificate of disposition forms shall be maintained by the retailer or wholesaler and shall be subject to inspection by the administrator or the administrator's designated agent for a period of not less than three years.

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(c) A retailer or wholesaler who violates subsection (b) of this section shall be subject to the penalties of section 21a-338 of the general statutes, as amended by [this act] section 7 of public act 08-106.

Sec. 5. Subsection (a) of section 6 of public act 08-106 is repealed and the following is substituted in lieu thereof (*Effective October 1, 2008*):

(a) Subject to the provisions of subsection (b) of this section, the administrator, as defined in section 21a-335 of the general statutes, as amended by [this act] section 1 of public act 08-106, may adopt, within available appropriations, regulations, in accordance with chapter 54 of the general statutes, to require certain consumer products determined by the administrator that bear lead-containing paint or that have lead in any part of the product and that a child may reasonably or foreseeably come into contact with, to carry a warning label described in this section. If the administrator adopts such regulations, no person, firm or corporation engaged in commerce shall have, offer for sale, sell or give away any consumer product, identified in such regulations, that may be used by the general public unless it bears a warning statement prescribed by federal regulations or, if no warning statement is prescribed by federal regulations, bears a warning statement that meets the requirements of subdivision (1) or (2) of this section, as appropriate. (1) The warning statement shall be as follows when the consumer product bears lead-containing paint: "WARNING--CONTAINS LEAD. DRIED FILM OF THIS SUBSTANCE MAY BE HARMFUL IF EATEN OR CHEWED. See Other Cautions on (Side or Back) Panel. Do not apply on toys, or other children's articles, furniture, or interior or exterior exposed surfaces of any residential building or facility that may be occupied or used by children. KEEP OUT OF THE REACH OF CHILDREN.". (2) The warning statement shall be as follows when the consumer product bears a form of lead other than lead-containing paint: "WARNING CONTAINS LEAD. MAY BE HARMFUL IF EATEN OR CHEWED. MAY GENERATE

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DUST CONTAINING LEAD. KEEP OUT OF THE REACH OF CHILDREN.". The placement, conspicuousness and contrast of such labeling shall be in accordance with 16 CFR 1500.121.

Sec. 6. Subsection (a) of section 21a-340 of the general statutes, as amended by section 9 of public act 08-106, is repealed and the following is substituted in lieu thereof (*Effective October 1, 2008*):

(a) Whenever a duly authorized agent of the administrator finds or has probable cause to believe that any hazardous household substance is misbranded, or is a banned hazardous substance, within the meaning of sections 21a-335 to 21a-346, inclusive, as amended by [this act] public act 08-106, such agent, within available appropriations, shall affix to such article a tag or other appropriate marking, giving notice that such article is, or is suspected of being, misbranded or is a banned hazardous substance and has been detained or embargoed, and warning all persons not to remove or dispose of such article by sale or otherwise until permission for removal or disposal is given by such agent or the court. No person shall remove or dispose of such detained or embargoed article by sale or otherwise without such permission. The administrator may, after notice and hearing, impose a civil penalty of not more than five hundred dollars for each separate offense on any person who removes, without such permission, any tag or other appropriate marking affixed to any article which has been detained or embargoed in accordance with the provisions of this subsection. Such penalty shall be deposited into the consumer protection enforcement account established pursuant to section 21a-8a.

Approved June 2, 2008